

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILIP W. HENDERSON,
Plaintiff,

v.

U.S. DISTRICT COURT JUDGE
CLAUDIA WILKEN,
Defendant.

Case No. [16-cv-03972-JSC](#)

ORDER OF DISMISSAL

INTRODUCTION

Plaintiff, a California prisoner, filed this pro se civil rights complaint under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388, 392-97 (1971) (finding implied right of action under Constitution against federal government officials), against a federal judge who denied his petition for a writ of habeas corpus.¹ Plaintiff's application to proceed *in forma pauperis* is granted in a separate order. For the reasons explained below, the complaint is dismissed.

STANDARD OF REVIEW

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." *Id.* § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the

¹ Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 6.)

claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the statement need only give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to state a claim for relief that is plausible on its face.” *Id.* at 1974.

LEGAL CLAIMS

Plaintiff alleges that United States District Court Judge Claudia Wilken violated his constitutional rights in denying his petition for a writ of habeas corpus. Judge Wilken denied Petitioner’s petition in 2007 in a decision that was subsequently affirmed on appeal. *See Henderson v. Newland*, No. C 98-4837 (N.D. Cal.) (ECF Nos. 54, 62). Plaintiff refers to Case No. “01-3691,”² which Judge Wilken closed after determining that it should be filed as a motion for reconsideration in Case No. C 98-4837 CW and granted, ordering the respondent to file an answer to the habeas corpus petition. C 98-4837 (ECF No. 17). In the instant petition, Petitioner seeks injunctive relief, specifically a hearing, a declaration that his federal constitutional rights were violated, and an order directing this Court to provide him with “a constitutionally valid proceeding.”

A federal judge is absolutely immune from civil liability for acts performed in her judicial capacity and, unlike the judicial immunity available to state judges, a federal judge’s immunity is not limited to immunity from damages, but extends to actions for declaratory, injunctive and other equitable relief. *See Moore v. Brewster*, 96 F.3d 1240, 1243 (9th Cir. 1996); *Mullis v. U.S. Bankruptcy Court*, 828 F.2d 1385, 1394 (9th Cir. 1987) (applying judicial immunity to actions under *Bivens*). This is because if a federal judge violates a litigant’s constitutional rights in a

²Plaintiff also refers to Case No. 00-0806. That is the number assigned to his case in the Eastern District of California before it was transferred here.

1 proceeding pending in federal court, Congress has provided carefully structured procedures for
2 taking appeals and for petitioning for extraordinary writs in Title 28 of the United States Code.
3 *See id.* Plaintiff sues Judge Wilken for acts performed in her judicial capacity, specifically the
4 rulings she made in Plaintiff's case. Judge Wilken is absolutely immune for liability for such acts.
5 Accordingly, the complaint must be dismissed for failure to state a cognizable claim for relief.

6 **CONCLUSION**

7 For the foregoing reasons, this case is DISMISSED. The clerk shall enter judgment and
8 close the file.

9 **IT IS SO ORDERED.**

10 Dated: November 2, 2016

11
12 
13 JACQUELINE SCOTT CORLEY
14 United States Magistrate Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28